Attachment 1

NO. MUR 038 (75)

REC'D: 10-14-75

FEDERAL ELECTION COMMISSION
Washington, D. C.

Complainant's Name: Newspaper articles brought to attention of the Federal Election Commission through the Press Office.

Respondent's Name: Senator Bentsen

Relevant Statute: 18 U.S.C. §613

Internal Reports Checked: Senator Bentsen 1975 reports.

Federal Agencies Checked:

SUMMARY OF ALLEGATION

The articles state that a campaign aide to Senator Bentsen solicited contributions from a representative of a "Mediterranean Country", thereby violating 18 U.S.C. §613, which prohibits the solicitation of contributions from foreign nationals.

PRELIMINARY LEGAL ANALYSIS

The articles fail to allege any facts substantiating the vague allegation against Senator Bentsen. Absent such facts, there is no basis for further investigation.

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RECOMMENDATION

Close the file.

Date of Next Commission Review:

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CD. 008-75

FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

COMMISSIONER MEMORANDUM # 109

MEMORANDUM

TO: COMMISSIONERS

FROM: LAN POTTER OBP.

DATE: OCTOBER 8, 1975

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SUBJECT: ATTACHED REVISED VERSION OF BENTSEN AUDIT REPORT (FOR EXECUTIVE SESSION)

Attached is a revised version of the auditors' report on the Bentsen Committee, which has been done over in accordance with the new proposed regulation and interim guideline adopted September 30. It reflects the fact that the auditors have applied, in this case, the simplified procedures for determining eligibility which were described to you in Commission Memorandum 103, and on this basis, the revised report concludes that the Bentsen Committee has met the criteria for eligibility.

With respect to subsequent computation of matching payments, the memorandum addresses itself to alternative procedures which might be used depending upon which three alternative plans for computing exceptions is finally adopted at the conclusion of the comment period on the pending regulation. These alternative procedures pose several policy considerations for the Commission to consider and I am merely proposing at this time that you may wish to begin a discussion of them, but there is no need to reach a final determination, of course, until the regulation is finally adopted.

In view of the Commission's determination last week not to make results of these audits public at this time, it appears that we must limit this discussion to the Executive portion of the Agenda.

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AUDIT REPORT 3-75
REPORT OF THE AUDIT AND INVESTIGATION DIVISION
OFFICE OF DISCLOSURE AND COMPLIANCE, FEDERAL ELECTION COMMISSION
ON
BENTSEN IN '76 COMMITTEE

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I. Background

This report covers an audit undertaken by the Audit and Investigation Division of the Federal Election Commission to determine whether there has been compliance with the provisions of the Federal Election Campaign Act, as amended (the Act). The audit was also conducted to enable the Commission to identify whether the candidate has met the threshhold requirements for public funding, and to determine the total amount of funds which appear to qualify for matching payments under the provisions of Chapter 96 of the Internal Revenue Code.

The audit was conducted pursuant to Section 438(a)(8) of the Act and Chapter 96 Section 9033 of the Internal Revenue Code, which directs the Commission to make audits and field investigations with respect to reports and statements filed under the Act.

The Bentsen in '76 Committee, with headquarters in Austin, Texas, was formed to support and promote the candidacy of Senator Lloyd M. Bentsen for nomination to the Office of President of the United States, and was designated by him as his principal campaign committee. The Officers of the Committee at the time of our audit were: Mr. William H. Lane, Chairman, and Mr. Shannon H. Ratliff, Treasurer.

The audit covered the period from January 1, 1975 through June 30, 1975, the cutoff date for the July 10, 1975 report. The committee reported an opening cash balance of $652,951.65, receipts

II. Findings and Conclusions

A. Qualification for Matching Payment

The review of financial reports filed with the Federal Election Commission by the Bentsen in '76 Committee and the audit of the committee's books and records indicate that, in our opinion, the candidate has met the criteria required for eligibility for matching payments under the provisions of Section 9037(a)of Chapter 96 of the Internal Revenue Code.

This opinion is predicated upon the Commission's interim adoption on September 30, 1975 of Section 100.7(d) I of the proposed Regulations (In this instance, there was no indication that the Bentsen in '76 Committee had offered any items of significant and enduring value in return for a payment to the committee).

As of June 30, the committee also was in receipt of $331,541.00 in contributions which, in our opinion , are qualified for matching payment of public funds under the provisions of Section 9037(a) of the Code. That total, and the amount of contributions received in each of 20 states as of June 30, 1975, is shown in the following table:

CONTRIBUTIONS* BY STATE TO THE BENTSEN IN '76 COMMITTEE
FOR THE PERIOD JANUARY 1, 1975 THROUGH JUNE 30, 1975

State	Amount Per Committee Records	Amount Certifiable
Arkansas	7,717.00	6,967.00
California	17,797.00	7,996.00
Colorado	6,820.00	6,070.00
Georgia	6,811.00	5,911.00
Illinois	7,631.00	6,350.00
Kansas	7,554.00	6,703.00
Louisiana	10,157.00	7,657.00
Maryland	6,675.00	6,675.00
Michigan	7,341.00	6,388.00
Mississippi	6,225.00	6,225.00
Missouri	6,093.00	6,088.00
New Jersey	5,018.00	5,018.00
New Mexico	7,177.00	7,177.00
New York	13,542.00	9,538.00
Oklahoma	9,134.00	9,134.00
Tennessee	6,530.00	6,495.00
Texas	285,560.00	183,831.00
Virginia	9,632.00	7,782.00
Washington, D.C.	10,452.00	7,200.00
Wisconsin	6,562.00	6,561.00

*The amounts shown are gross amounts, rounded to the nearest dollar.

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B. Qualification for Matching Payment under Alternative Formulations.

The Bentsen in '76 Committee maintained no records which would permit either the committee or the Commission's auditors to determine what costs were associated with any given fund raising event. In addition, the committee did not identify which contributions came as the result of purchases of tickets to fund raising events.

With the publishing of the proposed Regulation as an Interim Guideline however, it is now possible to make an evaluation of the total amounts of payments to the committee which might be excluded for matching purposes under the alternative provisions of the guideline (alternative formulation II and III of the September 30 narrative). This evaluation would require the Bentsen Committee, and other candidate committees in like curcumstances, to submit to the Commission only those contributions which constitute actual gifts of money, as opposed to payments for items of intrinsic value or for the cost of benefits conferred at fund raising events.

To facilitate the verification process, the Commission may wish to consider accepting an affidavit from the committee stating that the contributions presented for matching payment do constitute only gifts of money, less any other payment where the payee has received something of value in return for the payment. The affidavit might then be accepted on its face, with the stipulation that such an affidavit is accepted subject to later audit to verify the accuracy of the affidavit.

In considering this proposal, the Commission should be aware that the submission of an affidavit in this instance is a non-standard auditing procedure which is not a generally accepted accounting practice. As a practical matter, however, the Commission may decide that the benefit of using a technique which permits rapid analysis and verification of a committee's financial transactions outweighs the variation from standard procedures.

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C. Committee Accounting Procedure

The analysis of the committee's records show that the committee had no system of accounting for expenditures by state, and consequently, had no way of determining whether expenditures made in a given state were approaching the expenditure limitations for that state.

We would recommend that the Commission authorize the staff to raise this matter with the committee and assist them in developing a system whereby the committee may be certain that it is in voluntary compliance with the appropriate expenditure limitations imposed by the Act.

III. Recommendations

We recommend that the Commission consider the following proposals and their alternative with a view towards adopting those which might best assist the Bentsen and other committees complying with the provisions of the Act:

A. Qualification for Matching Payment

The Commission may choose to advise the Bentsen in '76 Committee that the candidate has met the threshold requirements for eligibility for matching payments, and/or that a total of $331,541 was verified by the Commsssion Staff as meeting the matching payment criteria as of June 30. The Commission may also wish to authorize the staff to discuss with Committee Representatives those transactions which were excepted by the staff during the initial review with a view towards obtaining more information on the identify of the contributors. If those steps were successful, some or all of the exceptions might then be viewed as meeting the matching criteria. If the Commission Staff and Committee Officials are unable to agree on certain transactions, the Commission might also wish to establish a procedure whereby the Committee might appeal the matter directly to the Commission.

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B. Qualification for Matching Payment under Alternative Formulations

If the Commission wishes to determine threshold eligibility of candidates under paragraphs 130.7(d)II and/or III of the September 30 Guideline, the Commission may wish to:

(a). Advise the committees concerned that the committees have an obligation to reconstruct their records so as to identify the contributions and expenditures associated with fund raising events occurring before August 28, 1975 (the date of issue of a previous Guideline on the subject);

(b). Or, advise the committees that, for transactions occurring before August 28, 1975, the committees may certify that fund raising expenditures did not exceed 20% of the total number of contributions received in a state, except as otherwise noted. (In this case, committees could raise $6,000 in each of 20 states and, if fund raising expenditures did not exceed 20% of the amount raised, so certify to the Commission);

(c). Or, the Commission might select any of a number of ways in which expenditures involved in fund raising might be deducted from contributions made in excess of the matchable $250 limit;

(d). Or, the Commission might choose to view all contributions made before August 28 as being fully matchable;

(e). Or, the Commission might choose to view all contributions made before August 28 as being fully matchable less some percentage deduction made as an approximation of the fund raising costs involved.

Whatever decision the Commission might make in this case, and assuming that the Commission chooses to select either Section 130.7 II or III the alternative, it is imperative that one of the alternatives above, or any method the Commission uses, be selected at an early date so that the Commission staff can apply that criterium to the committee's financial records in order to make the appropriate cerification(s).

C. Committee Accounting Procedures

With regard to the absence of any committee procedures for determining the total amount spent in any state which may be chargeable against the 18 U.S.C. 608 expenditure limitations, the Commission might consider:

(a). Directing the staff to informally assist the committee in establishing such procedures;

(b). Directing the Committee to establish such procedures;

(c). Consider using the proposed reporting forms as a control device which will permit the committee to comply voluntarily with the Act.

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D. Other Recommendations:

As a result of the experience gained during this audit series, we recommend that the Commission consider approval of the following;

(a). We recommend that the auditors be permitted to use statistical sampling for purposes of preparing appropriate work papers. Use of such a device would in no way interfere with the 100% visual inspection of each written instrument presented for matching payment, but it would permit the auditors to verify this inspection process in their workpapers without manually recopying the entire contents of the Committee's financial records.

(b). Given the Commission's policy of making all possible Commission activity open to the public, and since this report deals with the proposed use of public funds, we recommend that this report be made available for public inspection at a time deemed appropriate by the Commission.

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Polit. Intell.

Sept 5.

BENTSEN FUND-RAISERS FLOUT CAMPAIGN LAW. Dem Presidential hopeful Lloyd Bentsen espoused the cause of a certain Mediterranean country in recent key Senate debates. His position seemed to be based on his own convictions. Then, a campaign staff fund-raiser called a representative of that country, cited Bentsen's efforts and asked for a campaign contribution in return. He said he had been told to call by two higher-ups on the Bentsen staff who had served in previous Democratic administrations. The idea of a quid pro quo may seem bad enough, but soliciting funds from foreign nationals is a violation of Federal law subject to a $25,000 fine and as much as 5 years in jail. The representative of the foreign government was stunned by the request and warned Bentsen's man off the attempt. Given Bentsen's prodigious ability to raise campaign funds, this case raises questions about other sources of his support.

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